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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,550	01/25/2002	Richard E. Michaelson	112300-4548	8841
29159 7590 02/27/2008 BELL, BOYD & LLOYD LLP P.O. Box 1135 CHICAGO, IL 60690				
EXAMINER YOO, JASSON H				
ART UNIT 3714		PAPER NUMBER		
NOTIFICATION DATE 02/27/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@BELLBOYD.COM

Office Action Summary

Application No.

10/056,550

Applicant(s)

MICHAELSON, RICHARD E.

Examiner

Jasson H. Yoo

Art Unit

3714

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-59 is/are pending in the application.
- 4a) Of the above claim(s) 48-50 and 57-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 42-47 and 51-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Newly submitted claims 48-50, 57-59 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 42-47, 51-56 is directed to game play intervals, and claims 48-50, 57-59 are directed to graphical indicator that displays the amount of play time. The invention as described in claims 42-47, 51-56 could be used in a slot machine where a graphical indicator to display the amount of play time is not required. The invention as described in claims 48-50, 57-59 could be used in an arcade game that provides a random outcome, and does not require the game to be played at intervals. It appears that claims 42-47, and 51-56 are directed to the originally filed claimed invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 48-50, 57-59 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 42-47, 51-56 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 42-47, 51-56 recite the limitation, "at least one interval is independent of any inputs from the player in association with any plays of any games". Applicant's specification does not support this limitation.

Claims 42-47, 51-56 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 42-47, 51-56 recite the limitation, "at least one interval is independent of any inputs from the player in association with any plays of any games". The specification does not teach how at least one interval is independent of any inputs from the player in association with any plays of any games. Applicant's specification (paragraph 46) discloses, "alternatively, the routine may omit block 126, such that the game begins once the player has entered value into the gaming unit." Although the player does not select the type of fee (as discussed in paragraphs 34-36), a player input is still required (player has entered value). Due to the 35 US 112 issues, the claims will be examined based on the Examiner's best understanding of the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 42-47, 51-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al. (US 6,077,163).

Walker discloses the following:

Claim 42. A method of operating a gaming system, said method comprising:

(a) receiving a value amount associated with a player, said value amount initially defining a value total (value total is the amount of coin inserted in the gaming machine, or the electronic credit associated to the player's account, cols. 4:6-10, 6:5-6, 14:55-65);

(b) for at least one interval (during a gaming session), deducting a fee from the value total (deduct a wager fee, cols. 1:49-2:27), wherein said fee is associated with a value, the at least one interval is independent of any plays of any games and the at least one interval is independent of any inputs from the player in association with any plays of any games (The fee/wager is associated to the value amount, because the player needs enough credits or value total in order to make the wager.);

if the value total is greater than zero (if coin(s) are inserted to the gaming machine, or the credit balance is associated to the player's account is greater than zero);

determining and displaying at least one value payout associated with at least one displayed outcome for at least one play of a game, wherein said determined value payout is based on any deducted fees (Player can select price parameters based on the game parameters, col. 7:39-54. The game parameters may be amount wagered per play, and active pay lines. The determined value payout, is based on the pay-table, which is based on wager/deducted fees. After a wager is made, the CPU generates a random number and identifies a corresponding outcome, col. 4:17. Based on identified outcome, an outcome display is provided, and the appropriate payout is made, col. 4:15-26.);

adding the determined value payout to the value total (col. 4:10-26); and

(d) repeating (b) to (c) at least once (In any gaming machine, the gaming session can be repeated by adding money to the gaming machine, or by repeating step (a). Steps (b) to (c) can also be repeated if there are enough credits on the gaming machine to make a wager.).

Claims 43, 52. The fees deducted from the value total are equal (If the player selects the same game with the same game parameters, then the wager fee will be the same.).

Claims 44, 53. Each interval is an equal interval of time (Player can select the same game parameters including the same time interval, col. 5:22-33, Fig. 2B.).

Claims 45, 54. Deducting a fee from the value total for each of a plurality of intervals (As discussed above in claim 42 above, a wager fee is deducted from the player credit balance.).

Claims 46, 55. Determining and displaying at least one value payout associated with at least one displayed outcome for at least one play of the game if the value total is greater than zero after the plurality of intervals, wherein said determined value payout is based on any deducted fees (Player can select price parameters based on the game parameters, col. 7:39-54. The game parameters may be amount wagered per play, and active pay lines. The determined value payout, is based on the pay-table, which is based on wager/deducted fees. After a wager is made, the CPU generates a random number and identifies a corresponding outcome, col. 4:17. Based on identified outcome, an outcome display is provided, and the appropriate payout is made, col. 4:15-26.).

Claims 47, 56. Pausing the plurality of intervals for a period of time, wherein during said period of time, no fees are deducted from the value total (A fee is required for a gaming session. After the gaming session is over, the player can momentarily stop playing by not providing the fee to start the next gaming session).

Claim 51. See rejection for claim 42 above. Furthermore, Walker discloses a gaming system comprising: at least one display device; at least one input device; at least one processor (Figs. 2A-2B); and

at least one memory device which stores a plurality of instructions (cols. 3:67-4:5), which stores a plurality of instructions, which when executed by the at least one processor.

Response to Arguments

Applicant's arguments with respect to claims 42-47, 51-56 have been considered but are moot in view of the new ground(s) of rejection. A new ground of rejection has been made using Walker et al. (US 6,077,163). It appears that the claim limitations for the term "interval" are broader than the previous claim limitations. Currently, the term "interval" is interpreted as a gaming session. Claims 44 and 53 limits the term interval to be measurements of time. However, Walker discloses this limitation as discussed in the rejection above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson H. Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571)272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JHY
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